

IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN
DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION

THE STATE OF MISSISSIPPI,
ex rel. LYNN FITCH, in her
official capacity as Attorney General
of the State of Mississippi,

Plaintiff,

Civil Action No. 1:20-cv-168-TBM-RPM

THE PEOPLE'S REPUBLIC OF CHINA,
THE COMMUNIST PARTY OF CHINA,
NATIONAL HEALTH COMMISSION OF
THE PEOPLE'S REPUBLIC OF CHINA,
MINISTRY OF EMERGENCY
MANAGEMENT OF THE PEOPLE'S
REPUBLIC OF CHINA, MINISTRY OF
CIVIL AFFAIRS OF THE PEOPLE'S
REPUBLIC OF CHINA, PEOPLE'S
GOVERNMENT OF HUBEI PROVINCE,
PEOPLE'S GOVERNMENT OF WUHAN
CITY, WUHAN INSTITUTE OF VIROLOGY,
and CHINESE ACADEMY OF SCIENCES,

Defendants.

MOTION FOR EXTENSION OF TIME

COMES NOW the Plaintiff, State of Mississippi, *ex rel.* Lynn Fitch, Attorney General, and respectfully files this Motion for Extension of Time in which to serve process, and, in support thereof, would show the following:

1. The Plaintiff filed its Complaint on May 12, 2020.
2. On October 21, 2020, this Court entered an Order to Show Cause. Dkt. #3. The

Court entered the Order “for the purpose of determining whether this lawsuit should be dismissed without prejudice for the failure to timely serve process.” *Id.*

3. After the Plaintiff filed its Motion for Extension of Time (Dkt. #3), this Court granted “an additional 180 days to serve process on the defendants.” Text Only Order, Nov. 3, 2020.

4. Under the Federal Rules of Civil Procedure, if a defendant is not served within 90 days after the complaint is filed, the court must dismiss the action or order that service be made within a specified time. Fed. R. Civ. P. 4(m). However, “[t]his subdivision (m) does not apply to service in foreign countries under Rule 4(f), 4(h)(2), or 4(j)(1), or to service of a notice under Rule 71.1(d)(3)(A).” *Id.*

5. Defendants in this matter are foreign entities, governments, or instrumentalities subject to service pursuant to Rule 4(h)(2) or 4(j)(1). Therefore, the time limit under Rule 4 does not apply to this matter.

6. Plaintiff is working diligently to serve the Defendants pursuant to the applicable subsections of Rule 4 and 28 U.S.C. § 1608. Because the People’s Republic of China has objected to articles of the Hague Service Convention¹ that allow for service by mail, Hague procedures must be directly followed by diplomatic channels. *See* 28 U.S.C. § 1608.

7. The State has employed an international litigation support firm to assist in this process, although this still may require an additional year.

8. Plaintiff respectfully requests an extension of time to request service on the Defendants by Chinese authorities in the manner required by the applicable rules

¹ China’s declarations can be found at <https://www.hcch.net/en/states/authorities/details3/?aid=243>.

and statutes, and the Plaintiff will keep the Court apprised of the status of service upon the Defendants.

WHEREFORE, PREMISES CONSIDERED, the Plaintiff respectfully requests that upon consideration of this Motion, the Court grant an extension of time in which to complete service of process upon the defendants. The Plaintiff further requests any such other relief as this Court may deem just.

Dated: April 30, 2021

Respectfully submitted,

**LYNN FITCH
ATTORNEY GENERAL
OF THE STATE OF MISSISSIPPI**

/s/ Seth Shannon
Seth Shannon, Miss. Bar No. 103466
Office of the Attorney General
Post Office Box 220
550 High Street
Jackson, Mississippi 39205
Telephone: (769) 237-6406